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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,971	02/05/2004	Joseph Z. Lu	I20 06799US	5188
128 7590 02/21/2007 HONEYWELL INTERNATIONAL INC. 101 COLUMBIA ROAD P O BOX 2245 MORRISTOWN, NJ 07962-2245			EXAMINER LO, SUZANNE	
			ART UNIT 2128	PAPER NUMBER
			MAIL DATE 02/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/772,971

Applicant(s)

LU, JOSEPH Z.

Examiner

Suzanne Lo

Art Unit

2128

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 5-11, 16-19 and 23-27.
Claim(s) rejected: 1-4, 12-15, 21 and 22.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: First, the proposed amendments change the scope of the claims and require further search and consideration. The proposed amendment is not within the scope of the originally rejected claims (having two diagonals, using one or more defined areas located in a single section of the upper triangular matrix) and is much broader than the scope of the dependent claims objected to (the upper triangular matrix comprising two diagonals dividing the upper triangular matrix into upper, lower, left and right sections and the one or more defined areas in the upper triangular matrix are located in the right section of the upper triangular matrix).

Second, Applicant's arguments that the amended claims are patentable over the prior art are entirely unpersuasive. The Applicant appears to be arguing that a limitation originally within a dependent claim rejected under 35 U.S.C. 103, as it required a second reference teaching, renders the independent claim, which originally did not include said limitation and therefore rejected under 35 U.S.C. 102, in which the limitation was relocated to now renders the amended independent claim patentable due solely to the allegation that the shifted limitation is not fully anticipated by a solitary piece of prior art. Applicant also appears to be making the argument that due to the fact that the now amended independent claim is allegedly patentable over a single piece of prior art, the dependent claims rejected under 35 U.S.C. 103 with the second reference teaching are rendered patentable as well. Such arguments are specious and wholly unpersuasive.

Third, as claims 1-11 and 28 do include the final step of outputting a parameter within a method claim, Applicant's arguments in regards to these claims in terms of statutory subject matter are persuasive and 35 U.S.C. 101 rejections for claims 1-11 and 28 are withdrawn. However, the 35 U.S.C. 101 rejection of claims 12-27 and 29 are maintained. Claims 12-19 are directed to an apparatus comprising at least one processor "operable to" output a parameter. The phrase "operable to" directs the output of a parameter as intended use of the processor and therefore does not satisfy the requirement of a useful, tangible, and concrete result. Similarly, claims 20-27 are directed to a computer program which has code for outputting a parameter but the program and code itself is not executed and thus no parameter is outputted. Finally, claim 29 is still rejected due to the fact that the final result of the method claim is no longer the output of a parameter but rather a de-noised signal which is not outputted. Applicant's statements appear to question the validity of US Patents. Applicant provided hypothetical conclusory arguments regarding issued patents. Examiner will not address said arguments (See MPEP 35 U.S.C. 282).


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